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**DEPARTMENT OF COMMERCE**
**International Trade Administration**

[A-122-853]

**Citric Acid and Certain Citrate Salts from Canada: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that citric acid and certain citrate salts (citric acid) from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from the respondent, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

**EFFECTIVE DATE:** November 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Terre Keaton Stefanova or Rebecca Trainor, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1280 and (202) 482-4007, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On May 5, 2008, the Department initiated the antidumping duty investigation of citric acid from Canada. See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic*

*of China: Initiation of Antidumping Duty Investigations*, 73 FR 27492 (May 13, 2008) (*Initiation Notice*). The petitioners in this investigation are Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Americas, Inc.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 73 FR at 27493. See also *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997). For further details, see the "Scope Comments" section of this notice, below. The Department also set aside a time for parties to comment on product characteristics for use in the antidumping duty questionnaire. On May 27, 2008, we received product characteristic comments from the petitioners. In June 2008, we received comments from Shandong TTCA Co., Ltd (TTCA), and Jungbunzlauer Technology GMBH & Co KG, (JBLT) regarding the petitioners' product characteristic comments. Also in June 2008, the petitioners filed comments in response to TTCA's submission. For an explanation of the product-comparison criteria used in this investigation, see the "Product Comparisons" section of this notice, below.

On June 11, 2008, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of citric acid and certain citrate salts from Canada are materially injuring the U.S. industry, and the ITC notified the Department of its finding. See *Citric Acid and Certain Citrate Salts from Canada and China; Determinations*, Investigation Nos. 701-TA-456 and 731-TA-1151-1152, 73 FR 33115 (June 11, 2008).

On June 17, 2008, we selected JBLT as the sole mandatory respondent in this investigation. See Memorandum from James Maeder, Office Director, to Stephen J. Claeys, Deputy Assistant Secretary, entitled: "Antidumping Duty Investigation of Citric Acid and Certain Citrate Salts from Canada - Selection of Respondents for Individual Review," dated June 17, 2008. We subsequently issued the antidumping questionnaire to JBLT on June 26, 2008. On August 19, 2008, the petitioners made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination. On August 29, 2008, pursuant to section 733(c)(1)(A) of the Act, the Department postponed the preliminary

determination of this investigation until November 12, 2008. See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 50941 (August 29, 2008).

In August and September 2008, we received JBLT's questionnaire responses. In September and October 2008, we issued supplemental questionnaires, and we received JBLT's responses to these questionnaires in October and November 2008. We note that JBLT's questionnaire response that was due on November 7, 2008, was not received in time for consideration in the preliminary determination, but will be considered in the final determination.

On October 22, 2008, JBLT requested that in the event of an affirmative preliminary determination in this investigation, the Department: 1) postpone its final determination by 60 days in accordance with 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii); and 2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month period to a six-month period. On October 24, 2008, the petitioner requested that in the event of a negative preliminary determination in this investigation, the Department postpone the final determination by 60 days. For further discussion, see the "Postponement of Final Determination and Extension of Provisional Measures" section of this notice, below.

On October 28, 2008, the petitioners submitted comments for consideration in the preliminary determination.

**Period of Investigation**

The period of investigation (POI) is April 1, 2007, to March 31, 2008. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. See 19 CFR 351.204(b)(1).

**Scope of Investigation**

The scope of this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of this investigation also includes all forms of crude calcium citrate, including dicalcium citrate

monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of this investigation does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of this investigation includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Scope Comments

In accordance with the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. On May 23, 2008, and June 3, 2008, respectively, Chemrom Inc. and L. Perrigo Company timely filed comments concerning the scope of this investigation and the concurrent antidumping duty and countervailing duty investigation of citric acid and certain citrate salts from the People's Republic of China. The petitioners responded to these comments on June 16, 2008.

On August 6, 2008, the Department issued a memorandum to the file regarding the petitioners' proposed amendments to the scope of the investigations. In response, on August 11, 2008, L. Perrigo Company and the petitioners submitted comments to

provide clarification of the term "unrefined" calcium citrate. We analyzed the comments of the interested parties regarding the scope of this investigation. *See* September 10, 2008, Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, re: Antidumping Duty Investigations of Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China (PRC), and Countervailing Duty Investigation of Citric Acid and Certain Citrates Salts from the PRC, "Whether to Amend the Scope of these Investigations to Exclude Monosodium Citrate and to Further Define the Product Referred to as Unrefined Calcium Citrate" (Scope Memo). Our position on these comments, as set out in the Scope Memo, are incorporated in the "Scope of the Investigation" section above.

### Product Comparisons

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the "Scope of Investigation" section, above, and sold in Canada during the POI are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on four criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: 1) type, 2) form, 3) grade, and 4) particle size. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

### Date of Sale

The Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. However, the Department's regulations provide that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (*e.g.*, price and quantity). *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–92 (CIT 2001). In this case, JBLT indicated in its questionnaire responses that it made certain sales subject to long-term contracts in both the United States and Canada during the POI. For the sales

covered by these agreements, JBLT reported the contract date as the date of sale in its home market and U.S. sales listings, claiming that the material terms of sale were fixed at the time these contracts were signed. For all other sales that were not covered by these agreements, JBLT reported the date of invoice as the date of sale. In its responses to the Department's questionnaires, JBLT provided sample documentation of the types of long-term contracts that were in effect during the POI, and a detailed explanation of the nature of these agreements. JBLT stated that: 1) in some instances the invoice price differed from the price established in the contract, usually as a result of extra services being provided to the customer that were not covered by the contract<sup>1</sup>; 2) customers might change delivery destinations, packaging, granulation, or lead times after a contract was signed, which would result in a change to the price; and 3) the contracts were not "take or pay" contracts; therefore, the actual volumes sold for the contracted period might be more or less than the contracted volumes. *See* JBLT's October 15, 2008, Supplemental Questionnaire Response at 6–9.

As the information on the record indicates that the material terms of sale (*e.g.*, price and quantity) are subject to change after the date the sales contracts are signed, we preliminary determine that the invoice date better reflects the date on which the producer/exporter established the material terms of sale. Therefore, for purposes of the preliminary determination, we used the invoice date as the date of sale for all home market and U.S. sales, in accordance with our normal practice.

### Fair Value Comparisons

To determine whether sales of citric acid from Canada to the United States were made at LTFV, we compared the constructed export price (CEP)<sup>2</sup> to normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1) of the Act, we compared POI weighted-average CEPs to POI weighted-average NVs.

### Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the subject merchandise

<sup>1</sup> Such changes to price between date of contract and date of invoice are evident in JBLT's revised home market and U.S. sales databases submitted on October 14, 2008.

<sup>2</sup> All of JBLT's sales in the U.S. market during the POI were CEP sales.

was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We based CEP on packed, ex-factory or delivered prices to unaffiliated purchasers in the United States. When appropriate, we adjusted the starting prices for billing adjustments, rebates and interest revenue, in accordance with 19 CFR 351.401(c). We made deductions for movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act; these expenses included foreign inland freight from the plant to the port of exportation, foreign inland insurance, foreign brokerage and handling, U.S. brokerage and handling, U.S. inland freight from port to warehouse, U.S. warehousing, U.S. inland freight from warehouse to the unaffiliated customer, and U.S. inland insurance. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, credit expenses), and indirect selling expenses (including inventory carrying costs). We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.

For discussion of adjustments made to JBLT's reported U.S. sales data, see Memorandum to The File entitled: "Preliminary Determination Margin Calculation for Jungbunzlauer Technology GmbH & Co KG (JBLT)," dated November 12, 2008.

### Normal Value

#### A. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared JBLT's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. See section 773(a)(1)(C) of the Act. Based on this comparison, we determined that JBLT had a viable home market during the POI. Consequently, we based NV on home market sales.

#### B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent

practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export price (EP) or CEP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses, and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from exporter to importer. For CEP sales, the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 - 61733 (Nov. 19, 1997).

In this investigation, we obtained information from JBLT regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent and its affiliates for each channel of distribution.

During the POI, JBLT reported that it sold citric acid to end-users and distributors through two channels of distribution in both the U.S. and home markets. JBLT stated that its selling process was basically the same for all channels of distribution. As the details of JBLT's reported selling functions for each channel of distribution are business proprietary, our analysis of these selling functions for purposes of determining whether different LOTs exist is contained in a separate memorandum to James Maeder, Director, AD/CVD Operations Office 2,

from the Team entitled "Preliminary Level-of-Trade Analysis," dated November 12, 2008.

Based on our analysis, we find that the selling functions JBLT performed for each of its channels of distribution in the U.S. market were essentially the same, but for one selling function which we determined was not sufficient to warrant an LOT distinction between these channels. Therefore, we determined preliminarily that there is only one LOT (for CEP sales) in the U.S. market. Similarly, we found that the selling functions that JBLT (and its affiliates) performed for each of the channels of distribution in the home market were essentially the same, with the exception of certain selling activities which we determined were not sufficient to warrant a LOT distinction between these channels. Therefore, we determined preliminarily that there is only one LOT in the home market.

In comparing the home market LOT to the CEP LOT, we found that the selling activities performed by JBLT for its CEP sales were significantly fewer than the selling activities that it performed for its home market sales, and that the home-market LOT was more remote from the factory than the CEP LOT. Accordingly, we considered the CEP LOT to be different from the home-market LOT and to be at a less advanced stage of distribution than the home-market LOT.

Therefore, we could not match CEP sales to sales at the same LOT in the home market, nor could we determine an LOT adjustment based on JBLT's home market sales because there is only one LOT in the home market, and it is not possible to determine if there is a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction. See section 773(a)(7)(A) of the Act. Furthermore, we have no other information that provides an appropriate basis for determining an LOT adjustment. Consequently, because the data available do not form an appropriate basis for making an LOT adjustment but the home market LOT is at a more advanced stage of distribution than the CEP LOT, we made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) the indirect selling expenses incurred on the home market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

#### C. Cost of Production Analysis

Based on our analysis of the petitioners' sales below cost of production (COP) allegation filed in the

petition,<sup>3</sup> we found reasonable grounds to believe or suspect that citric acid sales were made in Canada at prices below the COP, and initiated a country-wide cost investigation. See section 773(b)(2)(A)(i) of the Act and *Initiation Notice* at 27494. Accordingly, pursuant to section 773(b) of the Act, we conducted a sales-below-cost investigation to determine whether JBLT's sales were made at prices below their respective COPs.

### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), interest expenses, and home market packing costs (see "Test of Home Market Sales Prices" section below for treatment of home market selling expenses and packing costs). We relied on the COP data submitted by JBLT in its October 27, 2008, supplemental response to section D of the questionnaire, except where noted below.

We adjusted the total cost of manufacturing for a major input used in the production of citric acid purchased from an affiliated company to reflect the higher of transfer price, market price, or cost in accordance with section 773(f)(3) of the Act. We recalculated the G&A expense ratio to include capital tax and consulting services. We applied the revised G&A expense ratio and the financial expense ratio to the total cost of manufacturing before our major input adjustment. For further discussion, see Memorandum from James Balog to Neal Halper, Director, Office of Accounting, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Jungbunzlauer Technology GMBH & Co KG dated November 12, 2008.

### 2. Test of Comparison–Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were adjusted for billing adjustments and interest revenue, and were exclusive of any applicable

movement charges, direct and indirect selling expenses, and packing expenses.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities." See section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of JBLT's sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### *D. Calculation of Normal Value Based on Comparison–Market Prices*

We based NV for JBLT on packed, ex-factory or delivered prices to unaffiliated customers in the home market. We made adjustments to the starting price, where appropriate, for billing adjustments and interest revenue in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, for movement expenses, including inland freight and inland insurance, under section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments for imputed credit expenses. We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act. Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling

expenses on the home-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

### Currency Conversion

It is our normal practice to make currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

In the antidumping questionnaire, we instructed JBLT to report prices and expenses in the currency in which they were incurred. Nevertheless, in this case, JBLT reported data that had been converted from multiple currencies into Canadian dollars (CAD) in the home market, and U.S. dollars (USD) in the U.S. market because its company-wide electronic data processing system automatically converts all foreign currency transactions into the currency of the respective JBL Group entity at the moment of posting. According to JBLT, the entry of data and the currency conversion is a simultaneous process in its accounting system. As a result, its system does not retain the original foreign currency amount in the sales database or in the general ledger. See JBLT's October 15, 2008, supplemental questionnaire response at pages 4–6.

Because it appears that the currency conversion process is a company-wide procedure that is done in the normal course of business, we have accepted JBLT's data as reported for the preliminary determination. However, at verification we intend to examine JBLT's accounting system, and the reasonableness of its price and expense reporting based on this system.

### Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for JBLT.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct Customs and Border Protection (CBP) to suspend liquidation of all entries of citric acid from Canada that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will also instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

<sup>3</sup> See the Petition on Citric Acid and Certain Citrate Salts from Canada, Vol. II at 4-9, filed on April 14, 2008.

| Manufacturer/Exporter                          | Weighted-Average Margin (percent) |
|--|-----------------------------------|
| Jungbunzlauer Technology<br>GMBH & Co KG ..... | 20.88                             |
| All-Others .....                               | 20.88                             |

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. JBLT is the only respondent in this investigation for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for JBLT, as referenced above. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999); and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from Indonesia*, 72 FR 30753, 30757 (June 4, 2007); (unchanged in final determination, 72 FR 60636) (October 25, 2007).

#### Disclosure

We will disclose the calculations performed in our preliminary analysis to parties to this proceeding in accordance with 19 CFR 351.224(b).

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of citric acid from Canada are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination (*see* below), the ITC will make its final determination no later than 45 days after our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary

determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 22, 2008, JBLT requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, JBLT requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: November 12, 2008.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

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